REMARKS

In the Office Action, claims 1 - 22 were noted as pending in the application, and all claims were rejected. By this amendment, claims 1, 5, 11, 12, 16, and 22 have been amended, and no claims have been added or canceled. Thus, claims 1 - 22 are pending in the application. The rejections of the Office Action are traversed below.

Rejection of Claims 1 - 3, 5, 7 - 9, 11 - 14, 16, 18 - 20, and 22 under 35 USC §102

In items 8 - 17, on pages 3 - 7 of the Office Action, claims 1 - 3, 5, 7 - 9, 11 - 14, 16, 18 - 20, and 22 were rejected under 35 USC §102 as being anticipated by U.S. Patent 6,112,240 to Pogue et al. This rejection is respectfully traversed.

The Pogue et al. Patent

Pogue et al. discloses a method and apparatus for obtaining client information relating to usage of a World Wide Web (WWW) site web page (Pogue et al. at abstract). A user operating a client computer accesses a WWW site on a remote server (Col. 4, lines 7 - 9). Pages downloaded to the client computer browser from the WWW site include a tracker tag (Col. 2, lines 14 - 16). Upon opening one of the downloaded web pages, the client browser reads the tracker tag, which causes client information to be sent to a tracker program in the form of a tracker message (Col. 2, lines 18 - 25; Col. 4, lines 30 - 38). The client information can include the time of each web page access, the type of client browser, and time between accesses of the web page (Col. 5, lines 60 - 67). The tracker program resides on a tracker computer, which can be the client computer or a remote computer (abstract; 2, lines 16 - 18). The tracker program receives the client information and stores it in a client information database on the tracker computer for subsequent analysis (Col. 2, lines 22 - 25; Col. 3, lines 11 - 14; Col. 4, lines 45 - 47; Col. 5, lines 33 - 40).

The Claimed Invention is Patentably Distinguishable Over Pogue et al.

The Applicants' claimed invention is directed to a system and method for monitoring a transaction executing on a network computer. In particular, and reciting the features of claim 12, there is claimed a monitoring method including:

accessing a web page from a web server, wherein the web page includes at least one block of processing code for executing a transaction;

downloading the accessed web page to a reconfiguration computer;

updating the web page by inserting instructions in the web page, wherein said instructions comprise a function for monitoring the transaction; and

storing the updated web page on the web server.

By such a method, web pages having code for executing a transaction are identified and are updated with the addition of monitoring instructions by a reconfiguration computer. The Office Action asserts that Pogue et al. fully anticipates the method recited in claim 12 by disclosing each of the recited features. The Applicants respectfully disagree. First, Pogue et al. fails to disclose the reconfiguration computer which has been added to claim 12 by amendment herein. The computers of Pogue et al. are limited to a client computer 200, a web server 304, and a tracking computer 308. Pogue et al. discloses that a tracker tag can be added to the code of a web page on a web server either manually or by means of a conventional application program (Pogue et al. at Col. 4, lines 22 - 25) but fails to disclose the concept of downloading a web page to a reconfiguration computer, which then updates the web page by inserting monitoring instructions prior to storing the updated web page back on the web server.

The Office Action cites to Pogue et al. at Col. 4, lines 21 - 29 as allegedly disclosing the insertion of monitoring instructions. However, the cited portion of Pogue et al. merely discloses that a tracker tag can be inserted in a web page. The tracker tag as used in Pogue et al. merely creates a tracker message, which can either be recorded client information or a call to a tracking program residing on the tracking computer (Col. 4, lines 30 - 38). Finally, contrary to the assertions of the Office Action, Pogue et al. is completely silent regarding the storing of the updated web page, with the inserted monitoring instructions, on the web server, as recited in claim 12. The Office Action cites to Pogue et al. at Col. 3, lines 31 - 40 as allegedly disclosing this feature, but this portion of Pogue et al. is describing the client computer 200, not the web server 304.

It is respectfully submitted that Pogue et al. fails to disclose each of the features recited in claim 12; and, therefore, Pogue et al. cannot reasonably be said to anticipate Applicants' claimed invention. Accordingly, claim 12 is believed to be patentably

distinguishable over the Pogue et al. document, and it is respectfully requested that the rejection of claim 12 be withdrawn.

Claim 1 recites subject matter similar to the features recited in claim 12 but in system form. For the same reasons as discussed above regarding claim 12, claim 1 is believed to be patentably distinguishable over the Pogue et al. document. Accordingly, it is respectfully requested that the rejection of claim 1 be withdrawn.

Claims 2 - 3 and 13 - 14 depend from claims 1 and 12, respectively, and include all the features of claims 1 and 12 plus additional features which are not taught or suggested by the Pogue et al. document. Therefore, for at least the reasons set forth above with respect to claims 1 and 12, it is submitted that claims 2 - 3 and 13 - 14 patentably distinguish over the Pogue et al. document, and withdrawal of the rejection of claims 2 - 3 and 13 - 14 is respectfully requested.

An alternate embodiment of the Applicants' claimed invention is directed to a system and method for monitoring a transaction executing on a network computer, wherein the measurement computer is a computer other than the web server. In particular, and reciting the features of claim 16, there is claimed a monitoring method including:

sending a web page from a web server to a client browser within a network;

executing an applet within the web page on the client browser, wherein the applet includes at least one link to a monitoring code file;

invoking the linked monitoring code file to monitor a transaction within the linked applet on the client browser; and

sending data generated from monitoring the transaction to a measurement computer, wherein the measurement computer is a computer other than the web server, and wherein the monitoring code file resides on a computer other than the measurement computer.

By such a method, the instructions for the monitoring method can be invoked with minimal modification of the existing code of the web page and with access to monitoring code in a JAR file and/or an ARM file on the web server. In contrast, and as correctly admitted in the Office Action on page 5, the monitoring/tracker program 310 of Pogue et al. is located on the tracking computer 308, which is also the location of the client information database for receiving client information (Col. 4, lines 32 - 42). The Office Action also

correctly correlates the tracking computer 308 of Pogue et al. with the measurement computer 310 of the present application. Therefore, the monitoring code files of Pogue et al. reside on its tracking computer, which teaches away from the method recited in claim 16 herein.

It is respectfully submitted that Pogue et al. fails to disclose each of the features recited in claim 16; and, therefore, Pogue et al. cannot reasonably be said to anticipate Applicants' claimed invention. Accordingly, claim 16 is believed to be patentably distinguishable over the Pogue et al. document, and it is respectfully requested that the rejection of claim 16 be withdrawn.

Claim 5 recites subject matter similar to the features recited in claim 16 but in system form. For the same reasons as discussed above regarding claim 16, claim 5 is believed to be patentably distinguishable over the Pogue et al. document. Accordingly, it is respectfully requested that the rejection of claim 5 be withdrawn.

Claims 7 - 9 and 18 - 20 depend from claims 5 and 16, respectively, and include all the features of claims 5 and 16 plus additional features which are not taught or suggested by the Pogue et al. document. Therefore, for at least the reasons set forth above with respect to claims 5 and 16, it is submitted that claims 7 - 9 and 18 - 20 patentably distinguish over the Pogue et al. document, and withdrawal of the rejection of claims 7 - 9 and 18 - 20 is respectfully requested.

In yet another embodiment, the Applicants' claimed invention is directed to a method for monitoring a transaction executing on a network computer, wherein the transaction is downloaded from a first computer and wherein transaction execution data is sent to a third computer. In particular, and reciting the features of claim 22, there is claimed a monitoring method, including:

downloading from a first computer transaction code to be processed on a second computer;

executing the downloaded transaction code on the second computer;

extracting monitoring code from the first computer to the second computer;

invoking a monitoring function on the second computer, wherein transaction execution data associated with the executing transaction is captured by the monitoring function; and

sending the transaction execution data from the second computer to a third computer,

wherein the first, second, and third computers are remote from each other.

By such a method, the code for the monitoring method can be invoked with minimal modification of the existing code of the web page and with access to monitoring code in a JAR file and/or an ARM file on the web server. The Office Action asserts that Pogue et al. fully anticipates the method recited in claim 22 by disclosing each of the recited features. The Applicants respectfully disagree. First, Pogue et al. fails to disclose extracting monitoring code from the first computer (web server) for use by the second computer (client computer) as a monitoring function. Further, as admitted by the Office Action on page 5, the tracker program 310 of Pogue et al. is on the tracking computer, i.e., the third computer, instead of being invoked on the second computer.

It is respectfully submitted that Pogue et al. fails to disclose each of the features recited in claim 22; and, therefore, Pogue et al. cannot reasonably be said to anticipate Applicants' claimed invention. Accordingly, claim 22 is believed to be patentably distinguishable over the Pogue et al. document, and it is respectfully requested that the rejection of claim 22 be withdrawn.

Claim 11 recites subject matter similar to the features recited in claim 22 but in system form. For the same reasons as discussed above regarding claim 22, claim 11 is believed to be patentably distinguishable over the Pogue et al. document. Accordingly, it is respectfully requested that the rejection of claim 11 be withdrawn.

Rejection of Claims 4, 6, 10, 15, 17, and 21 under 35 USC §103

In items 19 - 30, on pages 8 - 11 of the Office Action, claims 4, 6, 10, 15, 17, and 21 were rejected under 35 USC § 103 as being unpatentable over Pogue et al. in view of U.S. Patent No. 5,796,952 to Davis et al. This rejection is respectfully traversed.

The Davis et al. Patent

Davis et al. discloses a method for monitoring client interaction with a resource downloaded from a server (Davis et al. at abstract; Col. 8, lines 6 - 16). A user operating a client computer accesses a network server to access and download a resource, such as a network page (Col. 7, lines 10 - 13). Embedded in the downloaded page is a tracking program (Col. 8, lines 6 - 9). Alternately, the tracking program can be downloaded and

installed in a client process on the client computer or can be built into a client application (Col. 8, lines 43 - 49). The tracking program executes on the client computer to monitor various indicia and events to track the user's interaction with the web page (Col. 8, lines 12 - 16).

The Claimed Invention is Patentably Distinguishable Over the Cited Documents

The Applicants' claimed invention is directed to a system and method for monitoring a transaction executing on a network computer. In particular, and reciting the features of claim 21, there is claimed a monitoring method, including:

linking an applet within a web page on a web server to at least one monitoring code file;

sending the web page from the web server to a client browser within a network;

executing the linked applet within the web page on the client browser;

invoking the linked monitoring code file to monitor a transaction within the linked applet on the client browser; and

sending data generated from monitoring the transaction to a measurement computer, wherein the measurement computer is a computer other than the web server.

By such a method, the instructions for the monitoring method can be invoked with minimal modification of the existing code of the web page and with access to monitoring code in a JAR file and/or an ARM file on the web server. By linking an applet within a web page to a monitoring code file, transactions within the web page can be monitored on the client computer with monitoring code accessed from a file on the web server through the linked applet. In contrast, the monitoring code in Davis et al. is either embedded in the web page, is downloaded and installed in a client computer software application separate from any web page access, or is already built into the client software application (Davis et al. at Col. 8, lines 6 - 9 and lines 43 - 49). If the tracking program of Davis et al. is not already resident in the client application, it is embedded in the web page and downloaded to the client with the web page (Col. 8, lines 60 - 53).

The Office Action admits that Pogue et al. fails to disclose the claimed features of linking to a monitoring code file and invoking the linked monitoring code file to monitor a

transaction on the client browser. The Office Action cites to Davis et al. as allegedly disclosing the claimed feature. However, the Applicants respectfully assert that Davis et al. fails to remedy the deficiencies of Pogue et al. The cited portion of Davis et al. clearly discloses that the tracking program is embedded in the web page being downloaded and is not accessed by means of a link, as recited in claim 21 (Col. 12, lines 13 - 17). The client computer, in attempting to render the web page, automatically fetches the monitoring applet because the applet is embedded in the downloaded web page (Col. 12, lines 13 - 21). The only linking that Davis et al. performs regarding a monitoring function is after the monitoring is complete and the Davis et al. system sends the computed information to Server B for storage and analysis (Col. 12, lines 24 - 33).

For the reasons discussed above, claim 21 is believed to be patentably distinguishable over Pogue et al. and Davis et al., either taken alone or in combination. Accordingly, it is respectfully requested that the rejection of claim 21 be withdrawn.

Claim 10 recites subject matter similar to the features recited in claim 21 but in system form. For the same reasons as discussed above regarding claim 21, claim 10 is believed to be patentably distinguishable over the Pogue et al. and Davis et al. documents. Accordingly, it is respectfully requested that the rejection of claim 10 be withdrawn.

Claims 4 and 15 depend from claims 1 and 12, respectively and include all the features of claims 1 and 12 plus additional features which are not taught or suggested by the Pogue et al. or Davis et al. documents. Therefore, for at least the reasons set forth above with respect to claims 1 and 12, it is submitted that claims 4 and 15 patentably distinguish over the Pogue et al. and Davis et al. documents, either taken along or in combination; and withdrawal of the rejection of claims 4 and 15 is respectfully requested.

Claims 6 and 17 depend from claims 5 and 16, respectively and include all the features of claims 5 and 17 plus additional features which are not taught or suggested by the Pogue et al. or Davis et al. documents. Therefore, for at least the reasons set forth above with respect to claims 5 and 16, it is submitted that claims 6 and 17 patentably distinguish over the Pogue et al. and Davis et al. documents, either taken along or in combination; and withdrawal of the rejection of claims 6 and 17 is respectfully requested.

While teachings of several documents may be combined to render a claimed invention obvious, there must be a motivation or suggestion in the documents relied upon to make the specific combination. The Applicants respectfully assert that no suggestion or motivation

exists in either Pogue et al. or Davis et al. to combine their respective monitoring systems in the manner suggested by the Office Action. The Office Action asserts that Pogue et al. at Col. 2, lines 7 - 9 provides the requisite motivation to combine the teachings of Pogue et al. with those of Davis et al. The Applicants respectfully disagree. The cited portion of Pogue et al. notes that it would be desirable to have a method and apparatus that accurately and efficiently obtain and store information relating to use of a web site. Accordingly, the balance of the Pogue et al. disclosure represents in detail exactly how the Pogue et al. inventors envisioned such a method and apparatus would be configured. Similarly, the inventors of the Davis et al. system disclosed their methodology for monitoring a use of a network resource. There is no indication in either patent that the respective methods and devices disclosed in either patent are deficient in providing their respective monitoring functions such that a person of ordinary skill at the time would have been motivated to combine the teachings of the two patents in the manner suggested by the Office Action to render obvious the Applicants' claimed invention.

Summary

It is submitted that none of the documents, either taken alone or in combination, teach the claimed invention. Thus, claims 1 - 22 are deemed to be in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited. If any fees are required in connection with this Amendment, please charge the same to our Deposit Account No. 02-4800.

Respectfully submitted,

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